

RESOLUTION NO. 92-134

A RESOLUTION OF THE COUNCIL OF THE CITY OF POMONA, CALIFORNIA, SETTING FORTH ITEMIZED ACCOUNT OF EXPENSES, AND POSSIBLE PLACEMENT OF LIEN ON REAL PROPERTY PURSUANT TO CHAPTER 5 OF THE POMONA CITY CODE.

WHEREAS, THE POMONA CITY CODE, CHAPTER 5, ARTICLE 1, SECTION 5-9, authorizes the Building Official to abate buildings that are deemed dangerous or a public nuisance; and

WHEREAS, THE CITY OF POMONA, has abided by all requirements for declaring and abating nuisances as required by local, state and/or federal laws or requirements; and

WHEREAS, THE POMONA CITY CODE, CHAPTER 5, ARTICLE 1, SECTIONS 5-27, requires the Building Official to keep an itemized account of the expenses incurred, including administrative costs, in the repair or demolition work performed by or on behalf of the City; and

WHEREAS, THE POMONA CITY CODE, CHAPTER 5, ARTICLE 5-28, requires that if said expenses are not paid by the property owner within 5 days of passing of this resolution it shall constitute a lien on the real property from which the structure was repaired or removed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Pomona, California as follows:

SECTION 1. That the property located at 270, 277, 280 and 290 Heritage Court and 1815 North Gibbs Avenue has been abated by the Building Official and expenses in the amount of \$4,621.81 are now due and payable to the City Treasurer.

SECTION 2. That the itemized account of expenses incurred in abating the nuisance at the above described property is attached to this resolution as Exhibit "A".

SECTION 3. That the City Clerk shall certify to the passage and adoption of this resolution, and it shall thereupon be in full force and effect.

SECTION 4. That the City Clerk shall forward a certified copy of this resolution to the owner of the real property described above and to any and all other persons deemed appropriate by the Building Official or his/her designee.

APPROVED AND PASSED this 20th day of July, 1992.

ATTEST:

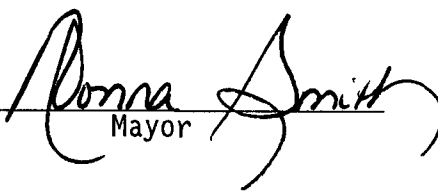
  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

resoNo/nice.wp

THE CITY OF POMONA

By   
Mayor

June 24, 1992

STATEMENT OF EXPENSES

1815 North Gibbs  
270 Heritage Court  
277 Heritage Court  
280 Heritage Court  
290 Heritage Court

<u>VENDOR</u>	<u>ITEM</u>	<u>AMOUNT</u>
CTA	Lot Book Report(5)	\$ 425.00
Fence Craft	Chain Link Fence	1,612.98
City of Pomona	Division Staff Time ( 4.00 hrs x \$35.00)	140.00
City of Pomona	Clean-Up	<u>2,023.83</u>
	SUBTOTAL	\$4,201.81
Administrative Processing (10%)		<u>420.00</u>
	TOTAL	\$4,621.81

JM/lg

gibbs/b

STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF LOS ANGELES)

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Pomona, California, and signed by the Mayor of said City at a \_\_\_\_\_ regular meeting of said Council, held on the 20th day of July, 1992, by the following vote, to wit:

AYES:	Councilmember:	<u>Ursua, Bredenkamp, Lantz, West, White,</u>
"	"	<u>(Mayor) Smith.</u>
NOES:	"	<u>_____</u>
ABSTENTIONS:	"	<u>_____</u>
ABSENT:	"	<u>Soto.</u>
NOT VOTING:	"	<u>_____</u>

  
\_\_\_\_\_  
City Clerk

(EMS/7-30-92)

THE CITY OF  
POMONA

MEMORANDUM

July 20, 1992

TO: JULIO FUENTES, City Administrator

FROM: M. MARGO WHEELER, Community Development Director

BY: JAMES J. MILLER, Building Official

SUBJECT: Resolutions for Filing of Liens

BACKGROUND

Chapter 5, Article 1 of the Pomona City Code allows for the recovery of costs incurred by the City in abating a structural public nuisance. The abatement process requires the Building Official to notify the property owner and all interested parties in an abatement action and allows those persons ample time to resolve their specific problem.

In a typical abatement action the initial complaint is inspected by staff and a determination is made as to the seriousness of the violation. If the property is deemed to be an immediate hazard in that the safety of the general public is in question, the Building Official can take Summary Abatement action.

Only in extremely rare cases is demolition considered for Summary Action. A building partially destroyed by fire and on the verge of collapse is one such example. Summary Abatement allows the Building Official to remove the hazard without going through the entire abatement procedure. In a Summary Abatement action, such as an accessible abandoned building, a certified letter is sent to the owner requesting a 72-hour response and correction of this problem. If no response is received the violation is corrected by boarding up the structure, fencing it, removing weeds and trash and disconnecting the utilities.

If the condition of the structure does not pose an immediate hazard a certified 10-day warning letter is sent to the owner of record requesting that they contact our office. If no contact is made and staff has been unable to reach a responsible party, the formal abatement process begins.

Once the property is determined to be a public nuisance and secured, it is referred over for formal abatement processing. The formal abatement process is specifically defined in Chapter 5

Article I of the Pomona City Code which is substantially the same as the Uniform Code for Abatement of Dangerous Buildings and requires that a series of certified letters be sent to all persons who have an interest in the property. To ascertain all interested parties it is necessary to order an \$85.00 Lot Book Report that details all recorded documents on the property. From the Lot Book Report a mailing list is created and the first Notice and Order is sent out certified mail. A notice of dangerous building is also recorded against the property at this time to notice any future buyers of the abatement action.

The first Notice and Order notifies all interested parties that they have 15 days to commence corrective work or 30 days to appeal the Building Official's decision. This notification usually brings the property owner in to obtain permits. Approximately 80% of the abatement cases are resolved at this stage in the abatement process. In approximately 5% of the cases an appeal is filed. This allows the property owner to have his side heard in front of a Hearing Officer, appointed by the City Administrator, as to why the abatement action should not go forward. In many all cases the decision of the Hearing Officer still requires corrective measures but gives the owner more time (usually 90 days) to comply if good cause is shown. If the decision of the Hearing Officer is not followed, the Building Official can go forward with corrective action.

If no response is received to the Notice and Order or no appeal is filed, a second Notice and Order is sent notifying all interested parties that the Building Official is going to take corrective action. In almost all cases, the corrective action is demolition of the building unless the demolition of the building is too costly or not in the community's best interest. Commercial structures with usable value and buildings with historical value are examples of buildings that may be repaired rather than destroyed. Once the second Notice is sent, bids for the work along with notification to AQMD for asbestos reporting is done. Demolition is currently costing around \$4.00 per square foot for wood frame construction.

As a final precautionary measure to insure that all due process requirements are met and to inform all interested parties of the seriousness of the pending action, a certified Intent to Demolish letter is sent. This letter sets the date for demolition and advises the owner to remove any personal belongings. A \$25.00 Lot Book Report update is also ordered at this time to insure that no last minute ownership changes have been made. The structure is also reinspected and photographed.

When the building is demolished, a Statement of Expense is prepared detailing the City's expenses in abating the nuisance. The Statement of Expense includes all receipts for items paid directly to outside vendors, includes inspection staff time, and provides for a 10% administrative cost to cover in-house processing (phone calls, supplies, photographs, document storage, etc.). The Statement of Expense is then presented to the City Council in the form of a resolution for their approval. All interested parties are notified of the Public Hearing and are given an opportunity to object to the Statement of Expense. Objections, however, are limited only to the amount of the lien. The action to demolish is not at issue at this point in the proceedings.

Once the lien is approved by the City Council, the property owner has five days to reimburse the City. If this is not done the lien is recorded and the Los Angeles County Tax Assessor is notified to include this amount on next year's tax roll.

The abatement process is a lengthy due process procedure that insures that an individual's property rights are not breached, therefore reducing the City's exposure to litigation. Exhibit A is a procedural checklist developed by staff that summarizes the legal notification requirements and insures that all due process requirements are satisfied as prescribed by Chapter Five of the Pomona City Code.

#### DISCUSSION

The Building Division has initiated an aggressive structural abatement program which is attempting to efficiently and expeditiously process all structural abatement cases including recovery of costs. In the past, many structures were fenced, boarded up and demolished without the necessary follow-up action. This did not allow for the City to recoup any of the expenses incurred. In abating the nuisance, the resolution to file a lien against an abated property is the final legal noticing action required. Once approved by the City Council, the lien is placed against the property and the County Tax Assessor is notified. Since the County posts these liens only once a year in August, it is imperative that properties with large monies owed are on that list. This is the case with the properties briefly discussed below in which a total of \$39,233 is now owed to the City.

445 North Park    \$6,846.40

The abatement action against 445 North Park was initiated in January of 1990 to require the property owner to repair or demolish several substandard structures on his property. After numerous attempts to work with the property owner

failed, the then-acting Building Official took steps and demolished the buildings. The attached statement of expenses reflects the City's time and monies expended in abating the nuisance.

345 Jefferson \$8,396.29

In the case of 345 Jefferson, et al, this particular property has been a public nuisance problem since March of 1991. Commonly referred to as the Park Avenue Hospital, this structure was abandoned and severely vandalized. The property was subject to numerous public complaints about vagrants that were using the buildings for shelter. The City has attempted to get the buildings' owner to respond to our inquiries but to no avail. Apparently, due to a pending lawsuit, the owner, Dr. Irwin Gellman, has refused to invest any more monies into the site. The attached Statement of Expenses reflect the City's time and monies expended to date (Exhibit C). It should be noted that an additional lien may have to be filed if demolition of the buildings is ultimately required.

1815 N. Gibbs aka Heritage Court. \$4,621.81.

The structural abatement action against this property comprises an effort to abate a public nuisance as a result of a construction project that was abandoned. The property is currently in foreclosure. The owner of record would not participate in removing the weeds and screening the construction site. As a Summary Abatement action Public Works removed the weeds and the Building Division had the property fenced. Further action against the property is pending the acquisition of the property by the foreclosing bank.  
(Exhibit D)

1020 Murchison \$3,058.00

The abatement action against this property was initiated in July of 1989. The property was boarded up and secured and has remained in that state until the building was voluntarily demolished in April of 1992. Staff spent an inordinate amount of time, including an appeal hearing, in attempting to get the owner to abate the nuisance. This case is an example of an action that has been recently resurrected so that it can be brought to full closure. (Exhibit E)

287 West Ninth \$7,367.25



This structure was partially destroyed by an explosion and fire on February 12, 1992. An abatement action was started but held off when the owner responded to the Notice and Order by obtaining a demolition permit. When no immediate action was taken in demolishing the building, the abatement action was re-activated. (Exhibit F)

625 E. Phillips \$682.24

This action was initiated on April 17, 1992 and is now in the final stage of the abatement process. Though the owner's agent has inquired about rehabilitating the structure, the condition of the building dictates that it is beyond repair. Demolition of the building is slated for August 1, 1992. (Exhibit G)

1461 Palomares \$2,150.00

The structural abatement action against this property is an example of a case that was closed when the structure was boarded up. Started in September of 1990, this case was appealed by the owner's attorney and heard before a Hearing Officer in October of 1990. Though the owner has complied with the Hearing Officer's ruling, no attempt was made to collect for staff's efforts in pursuing the abatement action. (Exhibit H)

1067 S. Thomas \$5,945.13

The residence at 1067 S. Thomas was first abandoned in March of 1990. The original abatement case was never followed through until January of this year. A new file was opened which has lead to the scheduled demolition of the building. Virtually no response has been received from the owner or lien holders on this property. (Exhibit I)

348 N. Palomares \$5,115.00

This property has been boarded up for approximately two years and has been the subject of continual vandalism and graffiti. The originally closed case was reopened on March 30, 1992 and the structure is slated for demolition on July 13, 1992. (Exhibit J)

In the future, as the current abatement cases are processed, filing of lien actions will appear as a routine agenda item. Though it is more efficient to file a lien after demolition takes

place, liens should also be filed on properties that incur large expenses for board up and clean up or on properties that are perceived to be ongoing problems, as in the Park Avenue Hospital action. The City will begin seeing some recovery of costs expended in abating the various public nuisances now in process.

#### **FINANCIAL IMPACT**

The expenses in abating these structures have already been incurred.

#### **RECOMMENDATION**

It is recommended that the resolutions be approved so that the costs incurred in processing a Chapter 5 Public Nuisance Action against these properties can be recovered.

#### **ATTACHMENTS**

Exhibit A through J  
    Structural Abatement Procedures  
    Statement of Expenses  
City Council Resolutions

MMW/JM/jd/lg

parkjeff

## STRUCTURAL ABATEMENT PROCEDURES

1)	<u>FIRST WARNING</u>	<u>DAY</u>
	A) Inspection Report	1
	B) If Imminent Danger, skip to #2	
	C) 10-day letter to owner of record	
	D) Open Case File	
2)	<u>SECOND WARNING</u>	1
	1) 72 Hour notice to abate nuisance to owner of record	
	2) Post Building and Photograph	
	3) Fence, Board-up and remove trash and weeds	
	4) Disconnect utilities	
	5) Order Lot Book Report	
3)	<u>FIRST LEGAL NOTICE AND ORDER</u>	10
	A) Record Notice of Dangerous Building	
	B) Send out Notice and Order of Dangerous Buildings and Right of Appeal Letter to all interested parties	
	C) Post Hazardous Building with Notice	
4)	<u>APPEAL</u>	*
	A) Schedule Hearing	
	B) Sending Out Notice of Hearing Date	
	C) Request Court Reporter	
	D) If no appeal, skip to item 5	
5)	<u>SECOND LEGAL NOTICE AND ORDER</u>	40
	A) Send out Notice and Order to Demolish	
	B) Order Bids to Demolish	
6)	<u>DEMOLITION</u>	70
	A) Order Lot Book Report update	
	B) Send out Letter to Intent Setting Date	
	C) Select Contractor	
	D) Re-inspect/photograph	
7)	<u>STATEMENT OF EXPENSE/NOTICE OF PUBLIC HEARING</u>	100
	A) Prepare Statement of Expenses	
	B) Notify interested parties of Public Hearing Date	
	C) Submit City Council Resolution	
	D) Record Lien	
	E) Notify Tax Assessor	

\*If appealed, add approximately 30 to 120 days to the process depending on the Hearing Officers decision.

# PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA,  
County of Los Angeles

I, Nancy Paisley do  
hereby declare that I am a citizen of the United  
States; I am over the age of eighteen years, and  
not a party to or interested in the above-entitled  
matter. I am the Legal Advertising Clerk of the

INLAND VALLEY DAILY BULLETIN  
(Formerly the Progress Bulletin)

a newspaper of general circulation, printed and  
published daily in the City of Pomona, County of  
Los Angeles, State of California, and which has  
been adjudged a newspaper of general circula-  
tion by the Superior Court of the County of Los  
Angeles, State of California, under the date of  
June 15, 1945, Decree No. Pomo C-606; that the  
notice, of which the annexed is a printed copy  
(set in type not smaller than nonpareil), has been  
published in each regular and entire issue of said  
newspaper and not in any supplement thereof on  
the following dates, to-wit:

July 2, 1992

I declare under penalty of perjury that the  
foregoing is true and correct.

Dated July 2, 1992

  
Signature

Proof of Publication of

CITY OF POMONA NOTICE OF PUBLIC

HEARING RE: RESOLUTION

NOTICE OF  
PUBLIC HEARING

ADDRESS:  
1020 Murchison Avenue  
625 East Phillips Avenue  
1461 South Palomares  
Avenue  
445, 1225, 1233, 1247, and  
1253 N. Park Avenue  
345 West Jefferson Avenue  
1815 North Gibbs Avenue  
270, 277, 280 and 290  
Heritage Court  
287 West Ninth Street  
1067 S. Thomas  
348 S. Palomares

APPLICANT:  
City of Pomona  
THE CITY COUNCIL OF  
THE CITY OF POMONA  
does hereby declare and give  
notice that a public hearing  
will be held on July 20, 1992,  
in the City Hall Council  
Chambers, 505 South Garey  
Avenue, commencing at 7:00  
p.m. regarding:  
RESOLUTION setting  
forth an itemized account of  
expenses and possible  
placement of lien on proper-  
ty pursuant to Chapter 5 of  
the Pomona City Code for  
properties located at:  
1020 Murchison Avenue,  
Pomona  
625 East Phillips Avenue,  
Pomona  
1461 South Palomares  
Avenue, Pomona  
445, 1225, 1233, 1247 and  
1253 N. Park Avenue,  
Pomona  
345 West Jefferson Avenue,  
Pomona  
1815 North Gibbs Avenue,  
Pomona  
270, 277, 280 and 290  
Heritage Court, Pomona  
287 West Ninth Street,  
Pomona  
1067 S. Thomas, Pomona  
348 S. Palomares, Pomona  
For particulars, contact  
the Building Division Office,  
505 South Garey Avenue,  
Pomona, California,  
(714) 620-2371.  
ELIZABETH VILLERAL  
City Clerk  
Publish: July 2, 1992  
(DC18443)